

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Serial No.: 09/914,176

Attorney Docket No.: 78104.028

Filing Date: 24 August 2001

Applicant(s): FRENCH et al.

Title: **IDENTIFICATION OF BACTERIA BY AMPLIFICATION AND PROBING****PETITION TO REVIVE****Box: PCT**Assistant Commissioner for Patents
Washington, D.C. 20231

To the Commissioner:

Applicants respectfully submit that the Notification of Abandonment dated November 21, 2002 in the above-identified application was issued in error. As detailed herein, Applicants responded completely and in a timely fashion to the Notification of Missing Requirements dated October 22, 2001. Applicants therefore respectfully request that the Notification of Abandonment be withdrawn, that the documents submitted herewith be entered into the application, and that the application be placed in line for examination on the merits.

FACTS & BRIEF IN SUPPORT OF PETITION

Applicants filed the subject application on August 24, 2001. On October 22, 2001, the U.S. Patent & Trademark Office ("the Office") mailed a Notification of Missing Requirements under §371 ("the Notice"). The Notice indicated that Applicants needed to file a signed inventors' declaration and to supply a Sequence Listing in both paper and computer-readable format. The Notice set a two-month period for response. Thus, a response to the Notice was due on or before December 22, 2001.

On November 13, 2001, Applicants filed a complete response to the Notice with the Office. A true and complete copy of Applicants' response is attached hereto as Exhibit A. Applicants' response included a transmittal letter, a copy of the Notice, a fully executed

inventors' declaration, a Statement That "Sequence Listing" and Computer Readable Copy Are The Same," a paper Sequence Listing, a computer readable copy of the sequence listing, and a check (No. 005415) in the amount of \$65. Applicants are also submitting herewith a computer disk copy of the Sequence Listing.

A self-addressed return receipt postcard accompanied Applicants' response. As of the date of this petition, the postcard has not been received by Applicants' counsel. Applicants' undersigned counsel has also reviewed his financial records and as of the date of this petition, check No. 005415 has not been paid. Thus, it appears that the Office never received Applicants' response.

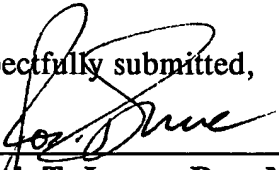
Applicants' counsel notes that at the time Applicants' response was filed, there was considerable turmoil in the U.S. Postal Service due to the September 11 attacks and the ensuing anthrax mailings. It is thus almost certain that Applicants' response was destroyed by the Postal Service in its efforts to eradicate any trace of anthrax in the mail. Applicants and Applicants' counsel, however, did make a complete and *bona fide* attempt to comply with the Notice, as evidenced by the attached documents.

Applicants therefore respectfully petition and request that the Notification of Abandonment dated November 21, 2002 be withdrawn, that the documents submitted herewith be entered into the application, and that the application be placed in line for examination on the merits. Early notification of such action is earnestly solicited.

Applicants' undersigned counsel, Joseph T. Leone, Registration No. 37,170, hereby declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which the attached documents are directed. I further declare that the attached Exhibit A is a true and complete copy of Applicants' response filed in the subject application on November 13, 2001, and that said response was, in fact, filed on November 13, 2001.

A replacement check in the amount of \$65 is attached hereto to cover the cost of complying with the Notice. The Commissioner is hereby authorized to charge any additional fees required to process this petition or to comply with the Notice to Deposit Account No. 18-2055.

Respectfully submitted,


Joseph T. Leone, Reg. No. 37,170
DEWITT ROSS & STEVENS S.C.
8000 Excelsior Drive, Suite 401
Madison, Wisconsin 53717-1914
Telephone: (608) 831-2100
Facsimile: (608) 831-2106

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to:

Box: PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

Date of Deposit: DECEMBER 3, 2002

Signature: 

00000068 09914176

65.00 DP

DeWitt
Ross & Stevens, S.C.

005415

VENDOR NO.

VENDOR NAME

78104.028

Williams Powell & Assoc.

TRANSACTION DATE	REFERENCE	GROSS AMOUNT	NET AMOUNT
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11/12/01	Missing Parts Filing Fee	(527) (JTL)	\$65.00
(Declaration, Sequence Listing (paper & computer readable))			

CHECK DATE	CHECK NO.	TOTAL GROSS	TOTAL DEDUCTION	CHECK AMOUNT
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Best Available Copy



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Serial No.: 09/914,176
Filing Date: 24 August 2001
Applicant(s): FRENCH et al.

Attorney Docket No.: 78104.028

Title: IDENTIFICATION OF BACTERIA BY AMPLIFICATION AND PROBING

**TRANSMITTAL OF MISSING PARTS OF
APPLICATION UNDER 37 C.F.R. § 1.53**

Box: Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

To the Commissioner:

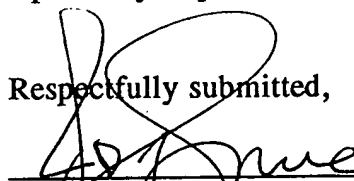
In response to the Notice of Missing Requirements which was mailed on 22 October 2001, enclosed are the following documents for filing with the above-referenced U.S. Patent Application:

1. A Declaration and Power of Attorney, executed by the applicants on September 18, 2001, September 21, 2001 and September 28, 2001.
2. Sequence Listing in paper and computer readable format.
3. Statement that Sequence Listing and Computer Readable Copy are the Same and Include No New Matter.

A check for \$65 is enclosed to cover the fees associated with this communication. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 18-2055.

Having now complied with all of the requirements of 37 C.F.R. § 1.53, applicant respectfully requests that this application be placed upon the files for examination.

Respectfully submitted,


Joseph T. Leone, Reg. No. 37,170
DEWITT ROSS & STEVENS S.C.
Firststar Financial Centre
8000 Excelsior Drive, Suite 401
Madison, Wisconsin 53717-1914
Telephone: (608) 831-2100
Facsimile: (608) 831-2106

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to:

Box: Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Date of Deposit: 11-13-01

Signature: Marcia Lepton

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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/914,176	Gary L French	78104.028
INTERNATIONAL APPLICATION NO.		
PCT/GB00/00740		
I.A. FILING DATE		PRIORITY DATE
03/01/2000		03/02/1999

Joseph T. Leone
Dewitt Ross & Stevens
8000 Excelsior Drive
Madison, WI 53717-1914

CONFIRMATION NO. 1966

371 FORMALITIES LETTER



Date Mailed: 10/22/2001

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Priority Document
- Biochemical Sequence Diskette
- Biochemical Sequence Listing
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Oath or Declaration
- Preliminary Amendments

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
 - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
 - A copy of the "Sequence Listing" in computer readable form has been submitted. The content of

- the computer readable form, however, does not comply with the requirements of 37 CFR 1.822 and/or 1.832, as indicated on the attached marked-up copy of the "Raw Sequence Listing."
- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
- **APPLICANT MUST PROVIDE:**
 - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
 - An initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing its entry into the specification.
 - A statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
 - For Rules Interpretation, call (703) 308-4216
 - To Purchase PatentIn Software, call (703) 306-2600
 - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

VONDA M WALLACE

Telephone: (703) 305-3736

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
09/914,176	PCT/GB00/00740	78104.028

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): FRENCH et al.

Atty. Docket: 78104.028

Title: IDENTIFICATION OF BACTERIA BY AMPLIFICATION AND PROBING

**DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION**

Each undersigned inventor hereby declare(s) that:

- My residence, post office address and citizenship are as stated below next to my name.
- I believe that I am, in conjunction with any joint inventor(s) named herein, the original and first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **IDENTIFICATION OF BACTERIA BY AMPLIFICATION AND PROBING**, the patent application for which was filed as PCT international application number **PCT/GB00/00740** on **01 March 2000**, was amended on **05 March 2001**, and which is amended by a preliminary amendment filed with this document.
- I reviewed and understand the contents of the above-identified patent application, including the specification and claims, as amended by any amendments referred to above.
- Foreign priority benefits are claimed under Title 35, U.S. Code §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below. Also identified below are any foreign applications for patent or inventor's certificate, or any PCT international application having a filing date before that of the application for which priority is claimed.

<i>Application No.</i>	<i>Country</i>	<i>Day/Month/Year</i>	<i>Priority Claimed</i>
PCT/GB00/00740	PCT	01 March 2000	YES
GB 9904804.3	GB	02 March 1999	YES

I APPOINT the following registered practitioner(s) to prosecute this application and to transact all related business in the U.S. Patent and Trademark Office: Joseph T. Leone (37,170), Craig A. Fieschko (39,668), Charles S. Sara (30,492).

Address all telephone calls to:

Joseph T. Leone

Telephone: (608) 828-0743

Facsimile: (608) 831-2106

Address all correspondence to:

Intellectual Property Department
DEWITT ROSS & STEVENS S.C.
Firststar Financial Centre
8000 Excelsior Drive Suite 401
Madison, WI 53717-1914

I DECLARE THAT all statements made herein of my own knowledge are true; all statements made on information and belief are believed to be true; that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 USC §1001; and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature

9 28 2001
Month Day Year

First or Sole Inventor: Gary Lawrence FRENCH

Post Office Address: Flat 5, 19 Morden Road
London, England SE3 0AD

Citizenship: Great Britain

Signature

Month Day Year

Second or Joint Inventor: Richard Michael ANTHONY

Post Office Address: Flat 1, 19 Lime Hill Road
Tunbridge Wells, Kent
England TN1 1LJ

Citizenship: Great Britain

Signature

Month Day Year

Third or Joint Inventor: Timothy James BROWN

Post Office Address: 47 Ravensbury Road
London, England SW18 4SA

Citizenship: Great Britain

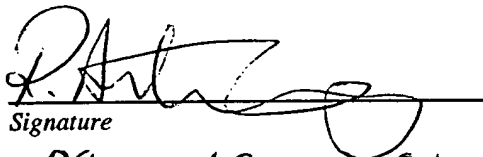
Address all correspondence to:

Intellectual Property Department
DEWITT ROSS & STEVENS S.C.
Firststar Financial Centre
8000 Excelsior Drive Suite 401
Madison, WI 53717-1914

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Signature

Month Day Year


Signature
09 18 01
Month Day Year

First or Sole Inventor: Gary Lawrence FRENCH
Post Office Address: Flat 5, 19 Morden Road
London, England SE3 0AD

Citizenship: Great Britain

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Tunbridge Wells, Kent
England TN1 1LJ

Citizenship: Great Britain

Signature

Month Day Year

Third or Joint Inventor: Timothy James BROWN
Post Office Address: 47 Ravensbury Road
London, England SW18 4SA

Citizenship: Great Britain

Address all correspondence to:

**Intellectual Property Department
DEWITT ROSS & STEVENS S.C.
Firststar Financial Centre
8000 Excelsior Drive Suite 401
Madison, WI 53717-1914**

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Signature

Month Day Year

**First or Sole Inventor: Gary Lawrence FRENCH
Post Office Address: Flat 5, 19 Morden Road
London, England SE3 0AD**

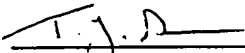
Citizenship: Great Britain

Signature

Month Day Year

**Second or Joint Inventor: Richard Michael ANTHONY
Post Office Address: Flat 1, 19 Lime Hill Road
Tunbridge Wells, Kent
England TN1 1LJ**

Citizenship: Great Britain



Signature

September 21st 2007

Month Day Year

**Third or Joint Inventor: Timothy James BROWN
Post Office Address: 47 Ravensbury Road
London, England SW18 4SA**

Citizenship: Great Britain

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/914,176
Filing Date: 24 August 2001
Applicant: FRENCH et al.

Attorney Docket No.: 78104.028

Title: **IDENTIFICATION OF BACTERIA BY AMPLIFICATION AND PROBING**

**STATEMENT THAT "SEQUENCE LISTING" AND COMPUTER READABLE
COPY ARE THE SAME AND INCLUDE NO NEW MATTER**

Box: Sequence
Assistant Commissioner for Patents
Washington, D.C. 20231

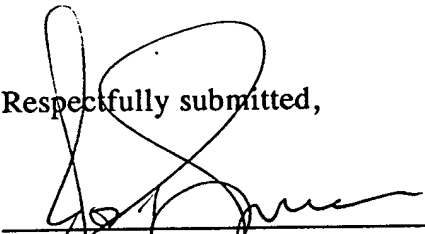
To the Commissioner:

Enclosed is a statement that the content of the paper copy of the "Sequence Listing" and the "Sequence Listing" in computer readable form are the same as required by 37 C.F.R. 1.821(g).

The paper copy of the Sequence Listing submitted in this application is identical to the computer readable copy of the Sequence Listing being submitted herewith.

Should the Examiner have any questions or comments with respect to the above-referenced application, the Examiner is requested to contact the undersigned attorney. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

Respectfully submitted,


Joseph T. Leone, Reg. No. 37,170
DEWITT ROSS & STEVENS S.C.
Firstar Financial Centre
8000 Excelsior Drive, Suite 401
Madison, Wisconsin 53717-1914
Telephone: (608) 831-2100
Facsimile: (608) 831-2106

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Box: Sequence
Assistant Commissioner for Patents
Washington, D.C. 20231

Date of Deposit: 11-13-01

Date of Signature: 11-13-01

Signature: Joseph T. Leone

SEQUENCE LISTING

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Anthony, Richard M
Brown, Timothy J

<120> Identification of Bacteria by Amplification and Probing

<130> WPA

<140> Filed Herewith

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